

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

No. 1:08-cv-119

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EDWARD CARRINGTON *et al.*,

Plaintiffs,

v.

DUKE UNIVERSITY *et al.*,

Defendants.

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)  
)  
)  
) CIVIL  
) COMPLAINT  
)  
) JURY TRIAL  
) DEMANDED  
)  
)

**PLAINTIFFS' REPLY TO THE CITY OF  
DURHAM'S OPPOSITION TO PLAINTIFFS' MOTION  
FOR LEAVE TO FILE AMENDED COMPLAINT**

Plaintiffs agree with Durham's concession that there can be no objection to the filing of the amended complaint, insofar as most of the Defendants have not yet filed answers and therefore Plaintiffs are entitled under Rule 15 to amend. Plaintiffs filed the motion only because one defendant, Mr. Covington, had already filed an answer and therefore leave to amend was required as to him. However, although Mr. Covington has stated that he opposes Plaintiffs' motion, he has not filed an opposition to it, nor does he have any genuine grounds for opposing our motion because the new claim does not name him as a defendant.

As stated in Plaintiffs' motion, Plaintiffs are amenable to Durham's filing a supplemental brief supporting dismissal of the new claim. But Durham's request for twenty pages is

excessive, given that there is only one new claim. Therefore, Plaintiffs propose that Durham be allowed to file a supplemental brief in support of its motion to dismiss of no more than ten pages, that Plaintiffs be allowed to file an opposition brief of no more than ten pages, and that Durham be allowed then to file a reply brief of no more than five pages.

September 28, 2009

Respectfully submitted,

**COOPER & KIRK, PLLC**

By: /s/ Charles J. Cooper

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-and-

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By: /s/ William J. Thomas

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### **CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2009, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel:

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